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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/522,721	03/11/2005	Clifford L. Jordan	P56713US	8538
7590 Robert E Bushnell Attorney at Law Suite 300 1522 K Street NW Washington, DC 20005-1202		03/19/2007	EXAMINER BRANDT, ADAM CURTIS	
			ART UNIT 3771	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE		
3 MONTHS	03/19/2007	PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/522,721	Applicant(s) JORDAN, CLIFFORD L.	
	Examiner Adam Brandt	Art Unit 3771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 54-70 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 54-70 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>1/28/2005</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative. Extensive mechanical and design details of apparatus should not be given.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:

- (1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;
- (3) if a chemical compound, its identity and use;
- (4) if a mixture, its ingredients;
- (5) if a process, the steps.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

2. The abstract of the disclosure is objected to because it exceeds the 150 word limit.

Correction is required. See MPEP § 608.01(b).

Drawings

3. The drawings are objected to because figure 3 would be more easily understood if instead of using "4A", 4B", etc, the Applicant used a descriptive title in the boxes. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 54-70 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 54, 59, 66, 68-70 establishes that the device is a tester for aircrew systems,

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but none of the elements provide a comparative checking system to validate the functionality of the aircrew system. Claim 56 introduces a “G-suit pressure” in line 2 of the claim but has not introduced a G-suit. Therefore, it is unclear what pressure is being measured. The claim should at least indicate the connection of the G-suit and the system. Claim 58 introduces the limitation for “said controller characterized by a speed control printed circuit board controlling a voltage applied to said first compressor”. It is not clear what is meant by “speed control”. Speed could refer to the speed of the aircraft, velocity of the air coming into the system, or rotational velocity of the compressor. Claim 65 also has the indefinite term “speed control”. Claims 55,57,58,60-65 and 67 are dependent from a claim rejected for being indefinite and are thus indefinite themselves. Therefore, claims 55,57,58,60-65 and 67 are rejected.

Double Patenting

6. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

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7. Claims 54-58, 61, 66, 67 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 3, 4, 9, 17, 21, 40, 41 of U.S. Patent No. 6,820,616. Although the conflicting claims are not identical, they are not patentably distinct from each other; Patent No. 6,820,616 fully discloses the invention of the application with the addition of an inlet filter. It would have been obvious to one of ordinary skill in the art at the time the invention was made to not include a filter at the inlet, since it has been held that omission of an element and its function in a combination where the remaining elements perform the same functions as before involves only routine skill in the art. *In re Karlson*, 136 USPQ 184.

Claim 54 of the application is fully disclosed by claim 1 of the patent. Claim 55 of the application is fully disclosed by claim 4 of the patent. Claim 56 of the application is fully disclosed by claim 7 of the patent. Claim 57 of the application is fully disclosed by claim 9 of the patent. Claim 58 of the application is fully disclosed by claim 17 of the patent. Claim 61 of the application is fully disclosed by claim 21 of the patent. Claim 66 of the application is fully disclosed by claim 40 of the patent. Claim 67 of the application is fully disclosed by claim 41 of the patent.

8. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

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9. Claims 59, 60, 62-65 and 68-70 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claim 19, 20, 23, 24, 28, 32 and 51-53 to prior U.S. Patent No. 6,820,616. This is a double patenting rejection. It is noted to the Applicant that phrases "characterized by"/"comprising" and "said"/"the" are equivalent terms and therefore do not constitute patently distinct subject matter. Additionally, reordering words in a claim does not constitute patently distinct subject matter.

Claim 59 of the present application is disclosed as claim 19 in the patent. Claim 60 of the present application is disclosed as claim 20 in the patent. Claim 62 of the present application is disclosed as claim 23 in the patent. Claim 63 of the present application is disclosed as claim 24 in the patent. Claim 64 of the present application is disclosed as claim 28 in the patent. Claim 65 of the present application is disclosed as claim 32 in the patent. Claim 68 of the present application is disclosed as claim 51 in the patent. Claim 69 of the present application is disclosed as claim 52 in the patent. Claim 70 of the present application is disclosed as claim 53 in the patent.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure, Puma et al. (5,318,018); Robinson (4,906,990); Tilley (6,435,009); Flood et al. (6,805,121); Jacq et al. (4,336,590); Damico et al. (4,344,144); Dougherty (4,914,957); Aldworth et al. (5,199,429); Kroger et al. (5,289,819); Van Duren et al. (6,126,681); Foote (5,314,402) and Brewer (6,425,395) relate to testing systems of pressurized suits.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Adam Brandt whose telephone number is 571-272-7199. The examiner can normally be reached on 8:30 AM to 4:30 PM; Mon thru Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on 571-272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ACB
ACB

March 9, 2007

Adam Brandt

Adam Brandt

Examiner

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Justine Yu

JUSTINE R. YU
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3/15/07